deposit. *O'Connor* v. *Mechanics' Bank*, 124 N. Y. 324, 26 N. E. 816. See *Florence Mining Co.* v. *Brown*, 124 U. S. 385, 391, 8 Sup. Ct. 531, 534. The universal power to stop payment on a check shows that it is not even an assignment of the debt. See 17 HARV. L. REV. 104, 113–114. The result of the principal case might be reached on the ground that death does not revoke the bank's power to pay. See 14 HARV. L. REV. 588. *Contra, Pullen* v. *Placer County Bank*, 138 Cal. 169, 71 Pac. 83; *Weiand's Admr.* v. *State National Bank*, 112 Ky. 310, 65 S. W. 617. If the bank pays without notice, it will be protected. See *Brennan* v. *Merchants' National Bank*, 62 Mich. 343, 346, 28 N. W. 881, 882; 17 HARV. L. REV. 104, 117. If the common-law rule as to revocation of agency by death is thus abandoned, it would seem consistent to hold that, even if known, death has no effect on an outstanding order. See MORSE, BANKS AND BANKING, 4 ed., § 400. The Negotiable Instruments Law, though silent on this point, provides that a check is a bill of exchange. See BRANNAN, NEGOTIABLE INSTRUMENTS LAW, § 185. And the drawer's death does not revoke the power to accept a bill of exchange. *Billing* v. *Devaux*, 3 M. & G. 565. See *Cutts* v. *Perkins*, 12 Mass. 205, 210.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN JUDGMENTS — EFFECT AT SITUS OF LAND OF FOREIGN DECREE FOR CONVEYANCE OF LAND AS ALIMONY. — The plaintiff, a citizen of New York, married the defendant, a citizen of Switzerland, in France. The plaintiff conveyed in fee to the defendant a one half interest in real property, situated in New York. The plaintiff then secured a divorce in Switzerland, whose law required a divorced husband to reconvey all property which his former wife had transferred to him during the existence of the marriage. The plaintiff in New York asked for a decree for reconveyance. *Held*, that the plaintiff has no right to the relief prayed. *De Graffenried* v. *De Graffenried*, 132 N. Y. Supp. 1107 (App. Div.). See NOTES, p. 653.

CONFLICT OF LAWS — SITUS OF CHOSES IN ACTION — JURISDICTION IN REM. — A debtor, garnished in Illinois, pleaded a prior assignment by the principal defendant. The assignee, who, it would seem, was not in Illinois, was made a party and properly served according to Illinois law. The assignee did not appear, and the debtor-garnishee paid. The assignee later sued him in Iowa. *Held*, that the Illinois judgment is a bar. *Steltzer* v. *Chicago, M. & St. P. Ry. Co.* 134 N. W. 573 (Ia.). See NOTES, p. 651.

CONSTITUTIONAL LAW — EX POST FACTO AND RETROACTIVE LAWS — STATUTE ADMITTING EVIDENCE AGAINST ACCUSED. — A statute provided that no evidence or pleading of a party obtained from him by judicial proceeding should be used against him in any criminal case. The statute was repealed after the commission of a forgery for which the defendant was indicted, but before trial. The forged writing had been incorporated by the defendant into his pleadings in a civil case. *Held*, that the writing is not admissible in evidence against him. *Frisby* v. *United States*, 44 Chic. Leg. N. 227 (D. C., Ct. App., Jan. 2, 1912).

A statute giving certain evidence the effect of a presumption cannot operate retrospectively in criminal cases. *State* v. *Cincinnati Tin & Japan Co.*, 66 Oh. St. 182, 64 N. E. 68; *State* v. *Bond*, 4 Jones (N. C.) 9. *A fortiori*, if the presumption is conclusive. *United States* v. *Hughes*, Fed. Cas., No. 15,416; *Kring* v. *Missouri*, 107 U. S. 221, 2 Sup. Ct. 443. These are really changes in substantive law. See THAYER, PRELIMINARY TREATISE ON EVIDENCE, chap. viii. Changes in procedure destroying substantial rights of the accused are *ex post facto* laws. *State* v. *Baker*, 50 La. Ann. 1247, 24 So. 240. See *Calder* v. *Bull*, 3 Dall. (U. S.) 386, 390; *Hallock* v. *United States*, 185 Fed. 417, 422. Thus, a statute allowing conviction upon evidence previously

insufficient is *ex post facto*, though creating no presumption. *Hart* v. *State*, 40 Ala. 32; *Goode* v. *State*, 50 Fla. 45, 39 So. 461. But one changing the competency of witnesses is not. *Hopt* v. *Territory of Utah*, 110 U. S. 574, 4 Sup. Ct. 202; *Wester* v. *State*, 142 Ala. 56, 38 So. 1010; *Mrous* v. *State*, 31 Tex. Cr. R. 597, 21 S. W. 764. The courts apparently give no weight to the difference between changes in admissibility of the evidence and changes in its legal effect. *State* v. *Johnson*, 12 Minn. 476. Nor to the fact that the statute admits, rather than excludes, the evidence. *Cf. O'Bryan* v. *Allen*, 108 Mo. 227, 18 S. W. 892. What is a permissible change of the accused's rights seems a matter of degree. In the principal case, the statute applied only to criminal cases. The retroactive effect of a statute admitting in all cases writings previously inadmissible has been held constitutional. *Thompson* v. *Missouri*, 171 U. S. 380, 18 Sup. Ct. 922. The breadth of such a statute may more conclusively negative any legislative intent of breaking faith to the accused, but the distinction seems fine, and the presumption in favor of the constitutionality of the statute should prevail.

CONSTITUTIONAL LAW — POWERS OF THE JUDICIARY — NO JURISDICTION TO ENFORCE CONSTITUTIONAL GUARANTEE OF REPUBLICAN FORM OF GOVERNMENT. — An amendment to the Constitution of Oregon provided for the initiative and referendum. The defendant corporation was taxed under a statute enacted by a reference to the people. It sought to avoid the tax on the ground that the statute and amendment violated the provision in the Federal Constitution that guarantees to each state a republican form of government. The Supreme Court of Oregon sustained the tax. The defendant appealed to the Supreme Court of the United States. *Held*, that the case be dismissed for want of jurisdiction. *Pacific States Tel. & Tel. Co.* v. *Oregon*, U. S. Sup. Ct., Feb. 19, 1912. See NOTES, p. 644.

CORPORATIONS — STOCKHOLDERS: RIGHTS INCIDENT TO MEMBERSHIP — STATUTORY RIGHT TO INSPECTION OF STOCK BOOK. — A statute provided that the stock book of every stock corporation should be open daily for the inspection of its stockholders, and provided for the recovery of a penalty and damages for refusal to allow inspection. On an application by a stockholder for a writ of *mandamus* to compel allowance of an inspection, the corporation stated facts showing that the relator's purpose in seeking an examination was "sinister and inimical to the defendant." *Held*, that the writ should be denied. *People ex rel. Britton* v. *American Press Association*, 133 N. Y. Supp. 216 (App. Div.).

The following decisions support the principal case. *Wight* v. *Heublein*, 111 Md. 649, 75 Atl. 507; *State ex rel. O'Hara* v. *National Biscuit Co.*, 69 N. J. L. 198, 54 Atl. 241; *Commonwealth* v. *Empire Passenger Ry. Co.*, 134 Pa. St. 237, 19 Atl. 629. But the weight of authority is *contra*. *Mutter* v. *Eastern and Midlands Ry. Co.*, 38 Ch. D. 92; *Cincinnati Volksblatt Co.* v. *Hoffmeister*, 62 Oh. St. 189, 56 N. E. 1033; *Venner* v. *Chicago City Ry. Co.*, 246 Ill. 170, 92 N. E. 643. The legislature could expressly provide that *mandamus* should always be granted. And it is frequently argued that the existing statutes intend to procure an absolute right to inspect the books in order to protect the stockholder from any possibility of baffling litigation. *Johnson* v. *Langdon*, 135 Cal. 624, 67 Pac. 1050; *Kimball* v. *Dern*, 116 Pac. 28 (Utah). But the interests of the corporation and the other stockholders are entitled to some consideration. And in the absence of express legislative command, it is submitted that *mandamus* should not be granted to one who has not clean hands. Such a plaintiff should be remitted to his suit for damages in which no issue of the stockholder's purposes could be raised. However, the current of judicial opinion in New York is against the principal case. *People ex rel. Callanan* v.